26 October 2007

Mr Sam Haddad
Director General
Department of Planning
23-33 Bridge Street
Sydney NSW 2000

Dear Mr Haddad,

Preliminary Submission to the Department of Planning on the Reform Agenda.

The Local Government Planners Network (LGPN) of the Planning Institute of Australia has prepared the following submission to provide input to the Department of Planning and the Minister for Planning on their current review of proposals to reform the planning system in New South Wales.

It is understood that the Department is currently working on a Discussion Paper to be released in November which would allow for comment on specific proposals dealing with the major reform targets, namely:

Plan Making
Exempt and Complying Development
Development Assessment
e.planning
Building and Subdivision Certification

The LGPN comprises members of the Planning Institute of Australia (NSW Division) that are working in or for Local Government. The LGPN recently convened a forum attended by some 140 Planners from across New South Wales to look at key planning issues, particularly in relation to the reform agenda. At the conclusion of the forum, a series of proposals were raised and it was agreed that the proposals be forwarded to the Department to contribute to the work being done in preparing the Discussion paper and more specifically, to represent the views of a wide cross section of practising planners from Local Councils who have a significant interest in the reform process.
There was strong support at the Local Government Planners Forum for reform of the planning system and we have endeavoured to group the issues raised into the main elements of the Minister’s Planning Reform Agenda.

At the outset we would affirm that planning is more than a bureaucratic process judged by time taken to process a DA and getting the strategic planning right as a precedent to decision making must be seen as the overarching priority. Local plans are essential instruments of public policy designed to influence and guide the development of places toward sustainable futures.

Further at the LGPN Forum, 6 key principles or outcomes were identified that should serve as the foundation for guiding the planning reform action and to set upfront what we are trying to achieve in planning from the local government perspective. The principles that the reform proposals must address are:

- **a)** Sustainability, including the financial and resource sustainability of local government to effectively play its role in planning;
- **b)** Integration of development infrastructure provision and environmental conservation/management in the planning process;
- **c)** Good governance, i.e. ensuring a positive working relationship between the 3 levels of government, between Councils and the Minister and with other key players;
- **d)** The need to shift the emphasis of limited professional resources from development assessment to strategic planning/policy making;
- **e)** Climate change – providing clear leadership to this major challenge;
- **f)** A clear and efficient system of plan making and approvals that achieves the desired planning and public policy outcomes;
- **g)** Retention of an appropriate level of community consultation in the plan making and DA assessment process.

It is proposed that the reform proposals be evaluated and judged against the achievement of each of these principles.

At the forum the following key proposals were identified for consideration as part of the reform agenda under the topics identified by the Minister. Some of the proposals are specifically relevant to reform actions while others contemplate further cooperative discussion with the department to investigate how an idea might be progressed.
Strategic Planning and Plan Making

- The Minister and the Department should be congratulated on the significant ground breaking work in preparing the first State Plan and the Regional Strategies. This work should continue to the finalisation of sub-regional plans, local plans and integration of infrastructure plans;

- Seek commitment from the Premier and Cabinet to commence work on a new Act that will modernise the existing Act so as to better reflect contemporary planning practice and policy by 2020;

- Request the DLG and DOP to address Integrated Strategic Planning in the LEP template as a whole of government approach for community development over the next 10 years i.e. integrate LEP’s with State Strategies, Council Management Plans and Works Programs under a “Local Plan” framework.

- Promote inclusion of broader social, political and environmental (natural resource management and biodiversity) issues under planning strategies and instruments not just land use controls;

- Introduce regionally based (not just Metropolitan) LEP review panels to facilitate the coordination and making of plans in rural/regional areas. This should include better use of excellent Regional Teams in operation through the department;

- LEPs to include integration of infrastructure plans as well as land use and development controls;

- Promote a policy approach under the State Plan for directing future population growth outside Sydney using strategies for satellite towns and cities supported by meaningful regional plans that take the pressure off Sydney and benefit regional NSW. This can be aided by new hyper communications technology to assist business development and reduce commuting;

- Revise the LEP templates to create 3 templates that reflect the different circumstances of rural, coastal and metropolitan areas, incorporating a stronger local and subregional strategy reference, allowing statements of policy intent and to make allowance for special circumstances such as world heritage listing, catchment management issues and other special environmental goals;

- Include alternative zoning controls for agricultural land under the Rural Lands SEPP. This means addressing the inability on blanket land use zones to distinguish between soil classes for different agricultural forms not just minimum lot sizes; rural planners argue that lot size and zoning should reflect land capability, arable qualities, availability of irrigation and other relevant factors;

- Clarify the role and status of DCPs in the hierarchy of instruments to give them greater power to complement the statutory instrument;
Develop a standard format for the basic structure of an LGA wide DCP to assist Councils (standard format to deal with DCP structure not content);

Certification should work if the strategic and policy framework is robust and transparent;

Establish Regional Planning Commissions of Department, Council and Development Industry representatives to monitor strategies and LEP outcomes; and

LGPN supports the review of subdivision and strata title legislation that would facilitate the winding up of strata schemes that are precluding the efficient and timely redevelopment of older residential and commercial buildings.

Development Assessment

Request the Department to amend Part 3A to allow either a Commission of Inquiry or merit appeal review on Part 3A decisions;

Better utilise the concept of staged DA provisions in the Act to reduce the requirements for substantial documentation for all DAs upon lodgement;

Prepare a common, non mandatory standard set of DA conditions that can be used consistently across the State for DAs to simplify the interpretation by applicants;

Streamline and standardise arrangements and conditions issued for integrated referrals to improve response times and consistency;

Set classes of DA’s according to level of assessment required with Statements of environmental effects only required for some DA’s;

Create a system for Assessment reports to be prepared by Certified Practising Planners (CPP) to accompany some classes of DA’s to assist Council processing;

The latter proposal might also include that CPPs are able to prepare DA reports (where required) using standard electronic report formats;

Develop a program for community engagement and information that will change expectations about DA consultation and notification depending on the level of assessment/ type of DA required;

Turnaround times for DAs to be established according to the level of assessment required rather than the accepted (but incorrect) use of the 40 day appeal period;

The LGPN does not support the mandatory requirement for Local DA Assessment Panels; they would not be feasible in many rural and regional
Council areas due to lack of “experts” and the additional costs of running them. The use of Advisory DA Panels is supported as well as giving Councils the power to delegate decision making functions to the panels if they choose to;

- Revisit and simplify the CC process that now require multiple s96 applications. The system should allow the Certifier to be able to impose conditions on CCs so long as they are consistent with the DA consent or modify them for minor changes without the need to apply variations; and

- Develop adequacy tests to ensure that DAs are lodged with sufficient and appropriate documentation that is relevant to the type of DA to facilitate the assessment processing.

**Exempt and Complying Development**

- Develop a private and council certification system that is based on a robust and transparent strategic and policy framework;

- Develop a standard template for exempt and complying development so that it is applicable to the area it serves (urban, rural or coastal) rather that a model that applies in all situations;

- Ensure that a standard Exempt and Complying template is rigorously tested by Local Council planning practitioners before it is adopted;

- Structure an Exempt and Complying template that sets a minimum mandatory schedule but allowing Councils the discretion to extend the schedule where the circumstances can be justified;

- Survey Councils and certifiers to ascertain why the use of Complying Development occurs in some areas but not others; and

- Revise the PCA system to establish a stronger mechanism for accountability including guidelines for better certification procedures.

**E Planning**

- Promote the electronic delivery of State policies, LEPs and DCPs using parcel based search systems for easy access; Councils should be assisted in adopting a consistent data storage system as in Queensland to standardise the presentation and retrieval of information;

- Establish a common platform for the delivery of planning information on line;

- Explore alternative community consultation techniques such as links through Foxtel or internet portals like My Space;

- Investigate the opportunities for e-plan options on a regional basis rather than each Council having their own system;
- Embrace new 3D modelling tools to revolutionise the way we plan and assess built form;

- Make available additional planning reform funds to achieve the proposals outlined above.

**Resourcing**

- Amend the Regulations to deregulate DA fees to provide additional income for staff recruitment;

- Find solutions to better resource planning staff in rural areas by secondment or sponsorship or financial incentives;

- Advocate for the retention of and where appropriate extension of local section 94 levies rather than removal or reduction;

- DLG be requested to remove rate pegging having regard to the constraints and crisis in local infrastructure funding and the impacts of the proposed new S94 restrictions;

- PIA to investigate education opportunities for planners in relation to Integrated Reporting to place them at the centre of this latest development in Local Government management;

- Develop in consultation with LGSA and universities, cadetships/ traineeships for planners and building surveyors;

- Revise the level of detail required in local council performance monitoring which is placing a significant strain and diversion of Council planning resources;

- Develop a code of conduct to better define the relationship and interaction between planning staff, Council administration and Councillors; and

- Use the Australian Local Government Association and NSW LGSA to establish better liaison arrangements with the Federal Government on infrastructure and urban affairs to achieve regional and State objectives, particularly on climate change and sustainability;

**CONCLUSION**

The foregoing list of ideas is not intended to be exhaustive of all possible reform initiatives. Councils are aware of the considerable work that the Department has commenced across the adopted reform areas.

It is hoped that the Department and Minister can review and adopt the reform proposals advocated by the PIA NSW Local Government Planners Network.
We would be pleased to elaborate on any of the proposals outlined in this submission and look forward to continuing discussion with the Department through the Discussion Paper exhibition and further consideration of the reform proposals. The PIA LG Planners Network believes that it is imperative that legislative change NOT occur until all proposals have been adequately “ground tested” by Local Council Planning Practitioners.

We would welcome the opportunity to nominate a group of such planners from across the State who will be able to provide valuable insight and commentary in an open and objective way on the reform proposals.

Yours Faithfully

Anthony Newland
NSW President
Planning Institute of Australia

Tony McNamara
Chair
NSW Local Government Planners Network